

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Lamont Alvin McElveen, #9987-071,

Petitioner,

vs.

Alberto Gonzalez,

Respondent.

Civil Action No.: 9:07-11-TLW-GCK

ORDER

Petitioner, Lamont Alvin McElveen, (“petitioner”) filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2241 on January 4, 2007. (Doc. #1). The petition was originally filed pursuant to “original habeas corpus” and not pursuant to 28 U.S.C. §2255 or §2241. (Doc. #1). As the petitioner had previously filed a petition pursuant to §2255 in this Court (4:03-cr-00473; 4:06-cr-70003), the magistrate judge considered the petition pursuant to §2241. On February 16, 2007, the petitioner moved to voluntarily dismiss the petition. (Doc. #8). However, on February 27, 2007, the petitioner filed a motion to reinstate the petition, asking that the Court consider his petition pursuant to §2241.

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by Magistrate Judge George C. Kosko, to whom this case had previously been assigned. (Doc. #15). In the Report, Magistrate Judge Kosko recommends that the District Court grant the motion to reinstate (Doc. #9), and dismiss *without prejudice* the §2241 petition for lack of jurisdiction. Objections to the Report were due on April 26, 2007. No objections were filed to the

Report.

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge's Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The Court has carefully reviewed the Magistrate Judge's Report and Recommendation. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendation is **ACCEPTED** (Doc. #15) and the petitioner's complaint dismissed *without prejudice*.

IT IS SO ORDERED.

S/Terry L. Wooten

Terry L. Wooten
United States District Judge

September 26, 2007
Florence, South Carolina